consideration of the first charge the explanation which Mr. Chan gave regarding the 10% charges. In any event, having regard to all the facts and circumstances of the entire matter, it is inconceivable to us that any solicitor practising in Singapore would "explain" to a client such as Madam Seah Huay, a totally illiterate woman, "the difference between solicitor and client costs and party and party costs and would also tell her she could have the solicitor and client costs taxed before the Registrar". We would ourselves reject this evidence as we are in no doubt that this evidence is incapable of belief and was put forward to try and explain away as a misunderstanding the undeniable evidence that 10% was agreed as the solicitor's costs.

It is also submitted that the Disciplinary Committee, having noted Madam Seah Huay's strong dissatisfaction with her solicitor, had failed to consider that her strong dissatisfaction, coupled with the possibility of self-deception or failure to understand what she had been told, had resulted in her sticking to her story that the arrangement was for her solicitor to take $10 out of every $100 if the claim was successful. It is argued that this omission, together with the wrong inference drawn by the Disciplinary Committee in respect of Mr. Chan's written offer to reduce his costs from $1,000 to $600 and the proper inference to be drawn that all his acts were consistent with his denial that there was a 10% champertous agreement, is sufficient reason for this court to come to the conclusion that the Disciplinary Committee could not properly feel sure of Mr. Chan's guilt on the first charge as well as on the other two charges. We are urged that we should not accept the findings of the Disciplinary Committee. We are unable to accept these submissions. We realise that the allegations are serious allegations and we have gone through all the printed evidence with great care. Having done so we are satisfied that the evidence of Madam Seah Huay rings true and we are not in any real doubt that Mr. Chan's evidence is unacceptable.

Similar criticisms were made of the Disciplinary Committee with regard to their findings and Report in respect of the second and fourth charges. It is also contended that they were wrong in treating the evidence of Ng Jui Meng, the assistant personnel manager employed by the injured son's employers, who told Madam Seah Huay the actual compensation payment made by the Insurance Company and who wrote the letters of complaint for Madam Seah Huay, as corroborating her evidence on the second charge. The submission is that in the end the guilt or otherwise of Mr. Chan on all the three charges now before us depends on the evidence of Madam Seah Huay. To put it colloquially, it is her word against her solicitor's and on the evidence and the probabilities it is submitted that the Law Society has failed to discharge the burden upon them to prove him guilty on each of those charges.

We agree that the evidence of Ng Jui Meng did not corroborate Madam Seah Huay's evidence in the proper sense of that term. Nonetheless in our judgment, the Disciplinary Committee were justified in preferring Madam Seah Huay's evidence to the evidence of Mr. Chan and we concur with and accept their findings and we propose to act on them. In our judgment due cause has been shown that he should be dealt with under section 84(1) and after considering the facts brought to our attention relevant to the punishment to be imposed we have arrived at the view that the appropriate punishment for the charges found proved is that Mr. Chan be struck off the roll and we so order. We also order that he should pay the costs of the entire proceedings.

Order accordingly.

Solicitors: *S. K. Lee & Co.; Leong & Gay.*

ATTORNEY-GENERAL v. PANG CHENG LIAN & ORS.

[O.C.J. (Wee Chong Jin C.J.) November 30, 1974]
[Singapore — Motion in Originating Summons No. 384 of 1974]

Contempt of Court — Jurisdiction — Preparation, publication and distribution of article scandalising the court — Liability of reporter supplying background information and distributors making innocent dissemination.

An article entitled "Singapore — Selective Justice" in the *Newsweek* magazine of November 11, 1974 contained various statements scandalizing the court and constituting contempt of the court. The Attorney-General moved for orders of committal against the respondents. The 1st respondent was employed as a part-time reporter or stringer of the magazine. The 2nd respondent was employed as the circulation manager for Singapore, Malaysia and Brunei, and was responsible for sale of subscription and newstand copies of the magazine. The 3rd respondent was employed as the distributor of the magazine in Singapore, Malaysia and Brunei. The editor of the magazine stated that he was in charge of the preparation, writing, editing and publishing the offending article and the author of the article. The 1st respondent volunteered materials which enabled the author to write the article. The 2nd and 3rd respondents innocently were responsible for the circulation and sale of the magazine in Singapore. All the respondents stated that they had no pre-knowledge of the contents of the article and no intention to scandalise the court.

Held: (1) one kind of conduct which is punishable as contempt of court is that scandalising the court itself;

(2) the 1st respondent bears some real responsibility for the preparation of and publication of the offending article. The reporter knows and ought to know the background information will be used in connection with the main purpose for which his report is required for publication. If the background information is scanty and/or inaccurate and an article based on it is written and published which amounts to scandalising of the court, the reporter, can fairly be said to bear responsibility for the preparation and publication of the offending article;

(3) innocent dissemination is in law no defence in cases of contempt of court where the dissemination is made by those who deal with the publication as a matter of trade or business and distribute it as wholesalers or distributors to subscribers.

R. v. *Evening Standard Co. Ltd.*(5) and *R.* v. *Griffiths & Ors.*(6) applied.

Cases referred to:-

(1) *Attorney-General* v. *Times Newspapers* [1974] A.C. 273.

(2) *In re Read and Huggonson St. James's Evening Post* (1742) 2 Atk. 469 at p. 471.

(3) *R.* v. *Gray* [1900] 2 Q.B. 36.

(4) *R.* v. *Davies* [1906] 1 K.B. 32.

(5) *R.* v. *Evening Standard Co. Ltd.* [1954] 1 Q.B. 578.

(6) *R.* v. *Griffiths & Ors.* [1957] 2 Q.B. 102.

The following cases were also cited in argument: *R.* v. *Odhams Press* [1957] 1 Q.B. 73; *Re The Evening News* [1881] N.S.W.R. 211; *A.G.* v. *Blundell* [1942] N.Z.L.R. 287; *Re Wiseman* [1969] N.Z.L.R. 55; *R.* v. *Murphy* [1969] 1 New Brunswick Reports (2nd Series) 297; *R.* v. *Tibbits and Windust* [1902] 1 K.B. 77; *R.* v. *Editor of New Statesman* (1928) 44 T.L.R. 301; *McLeods* v. *St. Aubyn* [1899] A.C. 549 P.C. at 561.

MOTION.

Tan Boon Teik (Attorney General) and *Glenn J. Knight* (State Counsel) for the applicant.

Dr. Thio Su Mien for the first respondent.

J. Grimberg and *Sat Pal Khattar* for the second respondent.

H. E. Cashin for the third respondent.

Wee Chong Jin C.J.: In these proceedings the Attorney-General moves for orders of committal against Pang Cheng Lian, Victor Santhanam and C. R. Dasaratha Raj (Pte) Ltd. for contempt of court by reason of the publication of an article entitled "Singapore — Selective Justice" in the 11th November 1974 issue of the International Edition of a weekly news magazine called *"Newsweek"*.

The article related to two defamation actions, which were consolidated, instituted in the High Court by the Workers' Party*, a political party in Singapore, against one Tay Boon Too a candidate of the People's Action Party, another political party and against the Attorney-General in his representative capacity representing the Department of Broadcasting, Ministry of Culture. These actions arose out of a speech by Tay Boon Too at an election rally during the 1972 general election. A summary of the speech was broadcast by the Department of Broadcasting.

The consolidated actions were tried at the High Court before a single judge. The trial took place in October 1974 and lasted seven days and judgment was reserved. The main issues contested at the trial were (i) publication; (ii) if publication was proved, whether the words were capable of a defamatory meaning; (iii) justification and (iv) qualified privilege. On 1st November 1974 the learned judge delivered judgment dismissing the actions against the defendants with costs. The learned judge held that the plaintiffs had failed to prove publication of the words complained of; that the plaintiffs had failed to prove that they had suffered special damage and that the words complained of were broadcast on a privileged occasion. The learned judge, however, found against the defendant Tay Boon Too on the plea of justification.

After the learned judge had delivered his judgment, counsel for the Workers' Party applied for a stay of execution of costs as his clients intended to appeal against the judgment. Counsel for the successful defendants objected to the application and offered an undertaking to refund the costs paid should the Workers' Party succeed on appeal. It being the normal practice of the court to refuse a stay where such an undertaking is offered, the learned judge refused the application.

I now turn to the article in the *Newsweek* magazine of 11th November 1974. It is related to the consolidated defamation actions I have earlier referred to. It's title "Singapore — Selective Justice" and contents are beyond a shadow of doubt objectionable in the highest degree and it has not been contended by any of the respondents that the publication of this article did not amount to a contempt of court.

In my opinion the article contains matter which constitutes contempt of court of the most serious description. It alleges that the Singapore High Court by its decision in the Workers' Party defamation actions did little to dispel the notion long charged by critics that the courts of this country are little more than extensions of the one-party system. The statement that there is a one-party system in Singapore is patently false. There is in truth no one-party system in Singapore. Indeed the article itself speaks of the 1972 general election and of the Workers' Party as contesting it and nails that particular falsehood. The fact that one political party wins all the seats in a general election in Singapore in which there are candidates from many political parties does not by that fact create a one-party system here.

Next, the statement that critics have long charged the courts of this country as little more than extensions of the one-party system is also devoid of truth. No attempt has been made to justify this serious accusation against the independence and impartiality of the judiciary of this country.

Next, the statement in the article that the decision of the Singapore High Court in the Workers' Party defamation actions did little to dispel the notion that the courts here are little more than extensions of the one-party system here is wholly inaccurate. From a later paragraph in the same article, the statement appears to be based on "precedents established in two similar cases that grew out of the 1972 general election". In fact there was only one such libel action in the High Court in which there were three defendants, a political party, its chairman and the editor of the newspaper in which the alleged libel was published. In that action the defendants admitted liability and the only issue the High Court had to deal with and decide was the quantum of damages to be awarded. It is accordingly plain that the decision in that earlier libel action did not establish anything which could be a precedent that could assist the High Court in the Workers' Party defamation actions.

Next, the allegation that the High Court by its decision in the Workers' Party defamation actions "chose to turn a blind eye to all precedents" is completely false. It is clear from what I have just said that there was no previous High Court decision which could serve as a precedent for the learned judge. I can only consider this allegation as a deliberate and unwarranted attack upon the impartiality of the learned judge hearing the Workers' Party defamation actions. But the attack upon the learned judge and thus upon the High Court itself does not end there. The article goes on to allege that the court added insult to injury by also decreeing that the Workers' Party must pay the costs of the action immediately despite the fact that its lawyers had already filed an appeal against the decision. As I have earlier stated, the learned judge refused an application for a stay of execution of costs pending an intended appeal in accordance with the normal practice

* See p. 47 *ante*.

of the High Court. It is thus clear that no appeal had yet been *filed* but the attack upon the learned judge and the High Court lies in the words "adding insult to injury" which impute that the learned judge of the High Court had unjustly and improperly not only caused injury or wrong to a party in an action before him but also had unjustly and improperly caused another injury or wrong to that party.

Finally, the article ends with a shocking allegation namely, that "in the courts in Singapore it makes a vital difference whether it is the government or the opposition that is in the dock". This grossly offensive allegation imputes to the judiciary of this country a complete lack of impartiality in every case in which the parties before the court are the government and a party in opposition to the party in power and that the courts of this country have been, and will always be biased and partial in favour of the government. In my opinion this allegation attacking the whole of the judiciary of this country is the worst form of "scandalising" of the court meriting the infliction of a severe penalty.

The present proceedings are for orders of committal for contempt of court. It is right that I should examine the foundation of the jurisdiction which this court exercises in contempt of court proceedings and to set out what kind of conduct is contempt of court. I propose to rely on certain passages in the judgment of Lord Diplock in the House of Lords in *Attorney-General* v. *Times Newspapers*.[1] Lord Diplock begins his judgment in these words (page 307): —

"My Lords, in any civilised society it is a function of government to maintain courts of law to which its citizens can have access for the impartial decision of disputes as to their legal rights and obligations towards one another individually and towards the state as representing society as a whole. The provision of such a system for the administration of justice by courts of law and the maintenance of public confidence in it, are essential if citizens are to live together in peaceful association with one another. 'Contempt of court' is a generic term descriptive of conduct in relation to particular proceedings in a court of law which tends to undermine that system or to inhibit citizens from availing themselves of it for the settlement of their disputes. Contempt of court may thus take many forms".

Later on Lord Diplock said (page 309): —

"The due administration of justice requires first that all citizens should have unhindered access to the constitutionally established courts of criminal or civil jurisdiction for the determination of disputes as to their legal rights and liabilities; secondly, that they should be able to rely upon obtaining in the courts the arbitrament of a tribunal which is free from bias against any party and whose decision will be based upon those facts only that have been proved in evidence adduced before it in accordance with the procedure adopted in courts of law; and thirdly, that, once the dispute has been submitted to a court of law, they should be able to rely upon there being no usurpation by any other person of the function of that court to decide it according to law. Conduct which is calculated to prejudice any of these three requirements or to undermine the public confidence that they will be observed is contempt of court."

The last passage I will quote is at page 309 where Lord Diplock said: —

"Contempt of court is punishable because it undermines the confidence not only of the parties to the particular litigation but also of the public as potential suitors, in the due administration of justice by the established courts of law."

One kind of conduct which is punishable as a contempt of court is scandalising the court itself (*per* Lord Hardwicke L.C. in *In re Read and Huggonson St. James's Evening Post*[2] case). A case in which a court exercised its power to punish for conduct which is characterised as scandalising a court or a judge is *R.* v. *Gray*[3] the headnote of which reads: —

"The publication in a newspaper of an article containing scurrilous personal abuse of a judge, with reference to his conduct as a judge in a judicial proceeding which has terminated, is a contempt of court punishable by the court on summary process."

Lord Russell of Killowen C.J. delivering the judgment of the court said (page 40): —

"It cannot be doubted — indeed it has not been argued to the contrary by the learned counsel who represents Howard Alexander Gray — that the article does constitute a contempt of court; but, as these applications, are, happily, of an unusual character; we have thought it right to explain a little more fully than is perhaps necessary what does constitute a contempt of court, and what are the means which the law has placed at the disposal of the Judicature for checking and punishing contempt of court. Any act done or writing published calculated to bring a court or a judge of the court into contempt, or to lower his authority, is a contempt of court. That is one case of contempt. Further, any act done or writing published calculated to obstruct or interfere with the due course of justice or the lawful process of the courts is a contempt of court. The former class belongs to the category which Lord Hardwicke L.C. characterised as 'scandalising a court or a judge'. That description of that class of contempt is to be taken subject to one and an important qualification. Judges and courts are alike open to criticism, and if reasonable argument or expostulation is offered against any judicial act as contrary to law or the public good, no court could or would treat that as contempt of court. The law ought not to be astute in such cases to criticise adversely what under such circumstances and with such an object is published; but it is to be remembered that in this matter the liberty of the press is no greater and no less than the liberty of every subject of the Queen. Now, as I have said, no one has suggested that this is not a contempt of court, and nobody has suggested, or could suggest, that it falls within the right of public criticism in the sense I have described. It is not criticism: I repeat that it is personal scurrilous abuse of a judge as a judge. We have, therefore, to deal with it as a case of contempt, and we have to deal with it *brevi manu*. This is not a new-fangled jurisdiction; it is a jurisdiction as old as the common law itself, of which it forms part. It is a jurisdiction, the history, purpose and extent of which are admirably treated in the opinion of Wilmot C.J., then Wilmot J., in his opinions and judgments."

In *R.* v. *Davies*[4] Wilmot's opinions were cited in the following passage (page 40): —

"What then is the principle which is the root of and underlies the cases in which persons have been punished for attacks upon courts and interferences with the due execution of their orders? It will be found to be, not the purpose of protecting either the court as a whole or the individual judges of the court from a repetition of them, but of protecting the public, and especially those who, either voluntarily or by compulsion, are subject to its jurisdiction, from the mischief they will incur if the authority of the tribunal be undermined or impaired. See the judgment prepared by Wilmot C.J. in *Rex* v. *Almon* (1765), but not delivered because the case was allowed to drop: Wilmot's opinions, p. 256. The word 'authority' is used by him to express 'the deference and respect which is paid' to the judges of a court and their acts 'from an opinion of their justice and integrity'. These words are apt with respect to the particular case with which he was dealing. But what possible difference in principle can there be in respect of direct attacks upon courts or judges, and of writings, the tendency of which is to deprive the inferior courts beforehand of the possibility of doing evenhanded and impartial justice according to the due course of law? To hold that there was a distinction would give colour to the notion, which cannot be too strongly repudiated, that the offended dignity of a particular court, or of the persons who compose

it, is the subject of punishment in such a case. 'The object of the discipline enforced by the court in case of contempt of court', says Bowen L.J. 'is not to vindicate the dignity of the court or the person of the judge, but to prevent undue interference with the administration of justice': *Helmore* v. *Smith;* and a considerable part of the undelivered judgment of Wilmot C.J. to which we have referred is devoted to shewing that the real offence is the wrong done to the public by weakening the authority and influence of a tribunal which exists for their good alone. He adds that such conduct is pre-eminently the proper subject of summary jurisdiction. Attacks upon the judges, he says 'excite in the minds of the people a general dissatisfaction with all judicial determination ... and whenever men's allegiance to the laws is so fundamentally shaken, it is the most fatal and dangerous obstruction of justice, and in my opinion calls out for a more rapid and immediate redress than any other obstruction whatsoever; not for the sake of the judges as private individuals, but because they are the channels by which the King's justice is conveyed to the people. To be impartial and to be universally thought so are both absolutely necessary for the giving justice that free, open, and unimpaired current which it has for many ages found all over this kingdom."

I now turn to consider the case against each of the three respondents and the responsibility, if any, of each of them for the offending article or for its publication. The respondent Pang Cheng Lian is a journalist employed by a Singapore daily newspaper "*New Nation*". She is also employed as a part-time reporter or stringer by the proprietors of the *Newsweek* magazine since mid-1972. The respondent Victor Santhanam is the sole proprietor of Sanvic Enterprise, a firm described as carrying on the business of magazine distribution. He is also the circulation manager of *Newsweek* for Singapore, Malaysia and Brunei. He was so appointed at the end of 1972 by the Pacific Office of *Newsweek* at Tokyo and is responsible for promotion and circulation directly to the Tokyo office. As circulation manager he is responsible for the sale of subscription copies and newstand copies and receives $6,000 yearly for supervising sales at newstands. He receives weekly between 16,500 and 17,000 subscription copies from Hongkong which he posts the same on the next day to subscribers of which there were 7,000 in Singapore, 7,000 in Malaysia and 2,500 in Brunei. The respondent, C. R. Dasaratha Raj (Pte) Ltd. is principally a distributing company which has been distributing foreign weekly, fortnightly and monthly magazines in Singapore for the past 25 years.

Newsweek itself as appears from the issue in question, appears to be a company registered in the United States of America. It appears that two editions are published weekly, one the U.S. edition which is published by Newsweek Inc. of Dayton, Ohio, U.S.A. and the other the International Edition which is published by a Robert D. Campbell and has its editorial and executive offices in New York. The International Edition appears to be printed in Hongkong by a Hongkong company. It appears that from Hongkong copies for distribution to subscribers in Singapore, Malaysia and Brunei are despatched by air direct to the Victor Santhanam's firm of Sanvic Enterprise and copies for sale to news vendors and shops in Singapore are despatched direct to C. R. Dasaratha Raj (Pte) Ltd.

The respondent Pang Cheng Lian has affirmed that she has written a number of articles, which were either requested by *Newsweek* or volunteered by her. As a stringer her reports are to provide news item comprising factual events. *Newsweek's* staff at New York re-writes reports sent by correspondents and stringers. In the instant case she was requested by New York to advise them when the Workers' Party libel action "verdict is reached". While the trial was proceeding she sent a cable to New York which reads: —

"Workers Party is suing one PAP MP Tay Boon Too and the Singapore Broadcasting Department over an alleged defamatory statement in an election rally in August 1972 stop Tay is reported to have said that Workers Party had received S$600,000 repeat S$600,000 from Kuala Lumpur for its election campaign stop The case started hearing last week and is expected to continue for another week stop Will inform you the day verdict is given."

On 23rd October 1974 she sent to New York another cable stating that "the trial had ended but judgment has been reserved". On 1st November 1974 after judgment had been delivered she sent to New York a cable. The contents of that cable appear to be in substance an accurate summary of some of the submissions advanced on behalf of the parties at the trial but there are two paragraphs of that cable which were volunteered by the respondent Pang Cheng Lian which have no relevance at all to the issues raised and decided at the trial of the Workers' Party defamation actions. These two paragraphs read as follows: —

"Workers Party suit is third one connected with the general election of 1972 stop Earlier Lee Kuan Yew had won libel suit against Harban Singh of Barisan Sosialis and was awarded S$50,000 in damages stop At election rally Harban Singh had called Prime Minister quote public enemy number one unquote and quote one of the biggest scoundrels in the world unquote stop

The Secretary General of the People Front was fined S$3,000 and jailed for one month in October 1972 for inciting violence at a political rally against the Prime Minister and his wife and other ministers stop"

In her affidavit Pang Cheng Lian has affirmed that her cable of 1st November 1974 included "a factual account of two earlier suits connected with the General Elections of 1972 namely the Prime Minister's defamation suit against *Harbans Singh* and *Leong Mun Kwai's* case which was based on *Straits Times* cuttings of the cases." She has affirmed that it was not her intention in the discharge of her work as a journalist that her report should lead to an article which has the effect of scandalising the courts.

It is right to say that she has also affirmed that should this court rule nonetheless that the sending of a factual report which leads to the publication of an article scandalising the courts renders her vicariously liable for contempt of court, then she sincerely and humbly tenders her apologies to the court for her inadvertent act of contempt.

It is also right to say that there is an affidavit before me sworn by one Robert C. Christopher of Newsweek Building, Madison Avenue, New York, United States of America, who states that he is the editor of the International Edition of *Newsweek* magazine and as such was in charge of and fully familiar with the preparation, writing, editing and publishing of the offending article. His affidavit corroborates the explanation of the part played by the respondent Pang Cheng Lian in the publication of the offending article but I shall revert to this affidavit later.

In fact that part of her cable of 1st November 1974 which refers to an earlier action in which the

Prime Minister had won a libel suit against "Harbans Singh of Barisan Sosialis and was awarded $50,000 damages" was inaccurate. I have earlier said that the earlier libel action was against three defendants who were tne Barisan Sosialis Party itself, Yeo Ah Ngoh the editor of the Party newspaper and Lee Siew Choh the Chairman of the Party. Furthermore, the affidavit of the respondent Pang Cheng Lian is misleading in stating that she had sent a factual account of that earlier libel action.

The question is whether this court ought to hold the respondent Pang Cheng Lian should bear some responsibility for the publication of the offending matters in the article. In *R.* v. *Evening Standard Co. Ltd.*[5] a reporter, Forrest by name, the editor and the Evening Standard Co. Ltd. appeared before the Divisional Court on a motion by the Solicitor General for writs of attachment to issue against them arising out of a publication in the "*Evening Standard*" newspaper on 23rd February 1954 of matter which purported to be a report of the trial, then proceeding, of a man charged with the murder of his wife. Forrest had telephoned to London from Chelmsford where the trial was at the Chelmsford Assizes a message *inter alia* stating that a Mrs. Darmody had said in evidence "After I had seen him (the prisoner) in the same public house again and he had asked me to marry him". That message was wholly inaccurate and was most prejudicial to the prisoner. The court found that he had inaccurately and most carelessly telephoned what he thought the witness had said. Lord Goddard C.J. who delivered the judgment of the court said (at page 584): —

"That is the foundation of the jurisdiction which this court has exercised for more than 200 years, and is the reason why the court will intervene to prevent and punish the publication of improper information before a case is heard or the dissemination of improper information about a case which is to be heard or is not fully heard or of false reports or misrepresentation of the proceedings in a court."

In the case of Forrest the reporter Lord Goddard at page 586 said: —

"We have had some doubt as to what we should do in the case of Mr. Forrest. As I have already said, he made an honest mistake, that is to say he did not deliberately send up that which he knew to be untrue; but perhaps owing to ill-health or other reasons, he had a confused idea in his mind. I hope that in future what I have said about the risks of sending reports up in the way which I have described will be carefully considered. We are therefore not going to impose a separate penalty on Mr. Forrest...".

It is to be observed that the court did not hold that Forrest was not liable but merely decided not to impose a separate penalty on him.

In *R.* v. *Griffiths and Others*[6] the Attorney-General moved for writs of attachment to issue against Griffiths described as chief European correspondent in London of *Newsweek* magazine, Rutherford the circulation director of Rolls House Publishing Co. Ltd. who import and distribute the magazine by way of trade, and W. H. Smith & Son Ltd. who are news agents and bookstall proprietors who also supply the magazine to wholesale houses and have it on sale in their shops and bookstalls. An article appeared in an issue of *Newsweek* which amounted to a contempt of court in relation to a trial in progress. The court accepted Griffiths' sworn affidavit evidence that he did not write the offending paragraphs or send the material on which they were based after considering the cables he sent to New York, where the magazine is compiled and edited, relating to the trial. The court found that Griffiths neither wrote the paragraphs nor supplied the information for them. On those findings of fact the court decided to hold that responsibility for the offending article or for its publication cannot be imposed on Griffiths. The court however held that Rolls House Publishing Co. and W. H. Smith & Son Ltd. were responsible for putting the offending article into circulation and rejected the defence of innocent dissemination as a valid defence. Lord Goddard C.J. who delivered the judgment of the Divisional Court said (at page 204): —

"As we are holding that to those who in the way of their trade are responsible for putting the offending matter into circulation the defence of innocent dissemination is not available in cases of contempt it is unnecessary...".

Later Lord Goddard said (at page 205): —

"This jurisdiction is discretionary and the court can be trusted not to exercise it except against those who can fairly be said to bear some real responsibility for the publication".

I find on the evidence before me that it can fairly be said of the respondent Pang Cheng Lian that she bears some real responsibility for the preparation and publication of the offending article. She was asked by New York to "advise when verdict is reached" in the Workers' Party defamation actions. In response she eventually sent not only the "verdict" but also a summary of the submissions of the parties and volunteered matter which was inaccurate and irrelevant and which, in the context of the contents of her cable, enabled the actual author or authors to write for publication in the magazine this scurrilous article linking the courts of this country with the government. The volunteered information merely stated that the Prime Minister had in an action which was connected with the 1972 general election won a libel action against a member of a rival political party and that the State had successfully prosecuted a member of a rival political party for inciting violence against ministers in 1972 at a political rally. It is said to be the usual practice for reporters to give "background information". If so, presumably the reporter knows or ought to know the background information will be used in connection with the main purpose for which his report is required for publication. If the background information is so scanty and/or inaccurate and an article based on it is written and published, which amounts to a "scandalising" of the court, then in my opinion the reporter can fairly be said to bear some responsibility for the preparation and publication of the offending article. Accordingly, I shall impose a fine and I do so to emphasise the necessity for part-time reporters of foreign publications imported here which have no responsible editor or manager in this country to send accurate and, so far as possible, complete material to their foreign employers for use or publication.

I deal now with the case of the respondent Victor Santhanam. He has affirmed in his affidavit the facts about him which are relevant to these proceedings. He has also affirmed that when he takes delivery at the Singapore Airport of each weekly issue of *Newsweek*

magazine consigned to his firm from Hongkong, they are already folded, banded and addressed to subscribers in the area under his supervision and that this was so in the case of the *Newsweek* issue dated 11th November 1974 of which he received 16,632 copies. He has also affirmed that he did not read or know of the offending article in that issue before he caused them to be posted to the subscribers. He has not denied responsibility in the matter and that should the offending article amount to a contempt of court he has offered unreserved apology for innocently disseminating the offending article. I have no reason to doubt his affidavit evidence but innocent dissemination is in law no defence in cases of contempt of court where the dissemination is made by those who deal with the publication as a matter of trade or business and distribute it as wholesalers or distributors to subscribers. Having regard to his position as circulation manager for Singapore, Malaysia and Brunei, the number of subscribers and the circumstances of the matter including the fact, which is publicised in every issue of the International Edition of this magazine, that it is written and edited for a worldwide audience, I am of the opinion that the respondent Victor Santhanam can fairly be said to bear some responsibility for the publication of the offending article. However, taking into consideration all the facts of the matter I shall impose merely a fine but I wish it to be clearly understood that should offences of this nature be committed in the future by persons in the same or similar position as this respondent similar leniency may not be extended.

I turn now to the case of the respondent, C. R. Dasaratha Raj (Pte) Ltd. who were admittedly distributors of this publication. Their answer to the motion as stated in the affidavit of the managing director, is that they did not in fact know that it contained the offending article and had no reason to suppose that it would. In the managing director's affidavit, he said that certain magazines distributed by his company, one of which is *Newsweek*, when from time to time Singapore appears as a major news item in its weekly issue, would inform the respondent in advance to look at the article on Singapore. In the case of this publication the respondent did not receive any prior intimation from *Newsweek* of the appearance of the offending article in it and did not know that any article or information had been sent by any agent or correspondent to *Newsweek* in America. The managing director also said that prior to the distribution by the company of the publication neither he nor so far as he knew, any of the senior staff read the publication until after he and the company's secretary had responded to a call from the Controller of Undesirable Publications. They failed to see this official as he was out of his office and was informed by the official's secretary that it was a routine enquiry. He and the company's secretary subsequently read the offending article but he did not realise the gravity of the matter until he was interviewed by a police officer of the Special Investigation Section, Criminal Investigation Department on the contents of the offending article. Immediately thereafter he took immediate steps to withdraw all the remaining copies of the publication from all the shops and news vendors where possible. He has in his affidavit expressed regret and assured this court that there was no intention on his part and on the part of the company to scandalise this court and has apologised for innocently putting the offending matter into circulation.

I accept that the respondent C. R. Dasaratha Raj (Pte) Ltd. did not in fact know of the contents of the offending article when they distributed it for sale by shops and news vendors but, I repeat, innocent dissemination is in law no defence in cases of contempt of court where the dissemination is made by those who deal with the publication as a matter of business and distribute it as wholesalers to the trade. (See *R. v. Griffiths*[6]). However, it is also right that I take into consideration their lack of knowledge of the contents of the offending article when they distributed the publication, the steps they took to withdraw from sale all remaining copies and the fact they at once expressed regret that they should have been a party to the circulation of the offending matter which amounted to a contempt of court, for which they also at once apologised. Accordingly, I shall impose merely a fine.

In the view I take of the offending article it is highly regrettable that this court, where the contempt of court is conduct of the kind described as scandalising the court, is unable to deal with those who are far more responsible for its publication and in particular the actual author of the offending article because they are out of the jurisdiction of this court. It is all the more regrettable in this particular case where the court has received the affidavit (earlier referred to) of the editor of the International Edition of this magazine who is in New York and thus out of the jurisdiction of the court. I say this because in that affidavit there is in its contents not the slightest indication that any one of those who share the real responsibility for this scandalous attack upon the administration of justice by the courts of another country feel any remorse should their strong criticisms and serious allegations prove unfounded or based on misleading, irrelevant or false facts. It is true that freedom of speech is one of the most precious assets of a democratic country but to print and publish material for a worldwide audience in this day and age of universal education, instant communication and a shrinking and interdependent world which on due adjudication is found to amount to conduct that is wrong, reprehensible and harmful to the citizens of another country, ought not to be left uncriticised or uncondemned.

The order I now make is that the respondent Pang Cheng Lian pay a fine of $1,500; the respondent Victor Santhanam pay a fine of $1,000; and the respondent C. R. Dasaratha Raj (Pte) Ltd. pay a fine of $500. The fines are to be paid within ten days or orders of committal will issue. Each of the respondents will pay one-third of the taxed costs.

Orders accordingly.

Solicitors: *Chor Pee & Hin Hiong; Sat Pal Khattar; Murphy & Dunbar.*